

REMARKS

Responsive to the lack of unity determination set forth in the Official Action of July 23, 2004, applicant provisionally elects Group I, claims 1-10, with traverse.

The same claims that are pending in the present national stage application were subject to examination during the international phase of the PCT application. The international examiner found no lack of unity, applying the same legal standards to the identical facts. As a result, applicant believes that the United States Patent Office cannot now contend that examination of the same claims in the present application would pose an undue searching burden. Indeed, the U.S. examiner has the considerable benefit of the search results generated by the international examiner.

Furthermore, the Official Action does not explain why, applying the identical legal standards to the identical claims, the opposite result is now being reached to the present U.S. national phase application, relative to the international application.

Applicant also respectfully submits that the Official Action does not comply with the requirements of PCT Rules 13.1 and 13.2, in seeking to justify the lack of unity determination. Specifically, the definition of "special technical feature" in PCT Rule 13.2 is art-based. Therefore, proper lack of unity determination would require citation of a publication showing the

"special technical feature". No such citation having been made, applicant submits that the lack of unity determination is improper as a matter of law.

In view of the above discussion, therefore, it is believed that applicant is entitled to an action on the merits of all of claims 1-24, in their full scope, in the present application. Such action is accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted,

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